

§ 195.22

egory that the savings association elects to have the appropriate Federal banking agency evaluate.

(2) The appropriate Federal banking agency considers originations and purchases of loans. The appropriate Federal banking agency will also consider any other loan data the savings association may choose to provide, including data on loans outstanding, commitments and letters of credit.

(b) *Performance criteria.* The appropriate Federal banking agency evaluates a savings association's lending performance pursuant to the following criteria:

(2) *Geographic distribution.* The geographic distribution of the savings association's home mortgage, small business, small farm, and consumer loans, if applicable, based on the loan location, including:

(ii) The dispersion of lending in the savings association's assessment area(s); and

(3) *Borrower characteristics.* The distribution, particularly in the savings association's assessment area(s), of the savings association's home mortgage, small business, small farm, and consumer loans, if applicable, based on

(a) *Scope of test.* (1) The lending test evaluates a savings association's record of helping to meet the credit needs of its assessment area(s) through its lending activities by considering a savings association's home mortgage, small business, small farm, and community development lending. If consumer lending constitutes a substantial majority of a savings association's business, the appropriate Federal banking agency will evaluate the savings association's consumer lending in one or more of the following categories: motor vehicle, credit card, home equity, other secured, and other unsecured loans. In addition, at a savings association's option, the appropriate Federal banking agency will evaluate one or more categories of consumer lending, if the savings association has collected and maintained, as required in §195.42(c)(1), the data for each cat-

§ 195.23

12 CFR Ch. I (1–12 Edition)

borrower characteristics, including the number and amount of:

(i) Home mortgage loans to low-, moderate-, middle-, and upper-income individuals;

(ii) Small business and small farm loans to businesses and farms with gross annual revenues of \$1 million or less;

(iii) Small business and small farm loans by loan amount at origination; and

(iv) Consumer loans, if applicable, to low-, moderate-, middle-, and upper-income individuals;

(4) *Community development lending.* The savings association's community development lending, including the number and amount of community development loans, and their complexity and innovativeness; and

(5) *Innovative or flexible lending practices.* The savings association's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies.

(c) *Affiliate lending.* (1) At a savings association's option, the appropriate Federal banking agency will consider loans by an affiliate of the savings association, if the savings association provides data on the affiliate's loans pursuant to § 195.42.

(2) The appropriate Federal banking agency considers affiliate lending subject to the following constraints:

(i) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase; and

(ii) If a savings association elects to have the appropriate Federal banking agency consider loans within a particular lending category made by one or more of the savings association's affiliates in a particular assessment area, the savings association shall elect to have the appropriate Federal banking agency consider, in accordance with paragraph (c)(1) of this section, all the loans within that lending category in that particular assessment area made by all of the savings association's affiliates.

(3) The appropriate Federal banking agency does not consider affiliate lending in assessing a savings association's

performance under paragraph (b)(2)(i) of this section.

(d) *Lending by a consortium or a third party.* Community development loans originated or purchased by a consortium in which the savings association participates or by a third party in which the savings association has invested:

(1) Will be considered, at the savings association's option, if the savings association reports the data pertaining to these loans under § 195.42(b)(2); and

(2) May be allocated among participants or investors, as they choose, for purposes of the lending test, except that no participant or investor:

(i) May claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase; or

(ii) May claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.

(e) *Lending performance rating.* The appropriate Federal banking agency rates a savings association's lending performance as provided in Appendix A of this part.

§ 195.23 Investment test.

(a) *Scope of test.* The investment test evaluates a savings association's record of helping to meet the credit needs of its assessment area(s) through qualified investments that benefit its assessment area(s) or a broader statewide or regional area that includes the savings association's assessment area(s).

(b) *Exclusion.* Activities considered under the lending or service tests may not be considered under the investment test.

(c) *Affiliate investment.* At a savings association's option, the appropriate Federal banking agency will consider, in its assessment of a savings association's investment performance, a qualified investment made by an affiliate of the savings association, if the qualified investment is not claimed by any other institution.

(d) *Disposition of branch premises.* Donating, selling on favorable terms, or making available on a rent-free basis a branch of the savings association that